IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4446 OF 2005

M/s.Vora & Company & Anr. ...Petitioners
V/s.
The Sangli Bank Ltd. & Ors. ...Respondents

Shri Simil Purohit for Petitioners.
Shri Santosh Mishra i/b. P.Thakkar & Co. for Respondents.

CORAM : V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATED : JULY 14, 2006

P.C. :-

. By this petition, the petitioner has impugned the order passed by the DRAT confirming the order of the DRT Bombay rejecting the application of the present petitioner-original defendant for calling an official of the bank for cross-examination in relation to the known transaction between the defendant and the bank.

. The petitioner in his application before the DRT for permission to cross-examine has averred as under :-

> "None of the documents annexed to the affidavit of the Applicant Bank disclose the date of the sanctioning of the said facility."

. The application gives substantial reasons for this prayer. However, both the Tribunals rejected this application on grounds unsustainable in law. The basic principle of natural justice for grant of opportunity to cross-examine is violated and yet on flimsy grounds, the request is rejected. It is obvious that no injury can be caused to the bank or its officials by permitting them to appear and themselves cross-examined. In our opinion, both the Tribunals have erred in not exercising jurisdiction vested in them by law. That jurisdictional error is liable to be corrected under Article 227. Hence, we allowed the petition and direct the bank to produce witnesses before the DRT Bombay and make them available for cross-examination on such date as the Tribunal may fix. Petition, accordingly, disposed of.

. The petitioner-defendant shall be at liberty to apply for production of accounts and other necessary documents by making appropriate application before the Tribunal.

(V.G. PALSHIKAR, J.)

(V.M. KANADE, J.)